REMARKS

The Applicant has carefully reviewed the Office Action mailed February 26, 2007 (hereinafter "*Office Action*"), and offers the following remarks to accompany the above amendments.

Claims 7, 16, 23, and 30 have been amended to correct a typographical error. No new matter has been added and no new search is required.

Claims 1-3, 10-12, 19, 26, 33, 45, and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,167,124 to *Johnson et al.* (hereinafter "*Johnson*") in view of U.S. Patent No. 7,043,644 B2 to *DeBruine* (hereinafter "*DeBruine*"). The Applicant respectfully traverses the rejection.

Prior to addressing the rejection, the Applicant provides a brief summary of the claimed invention. The present invention is directed to a method and system for transporting digital files over a peer-to-peer network. The network includes at least one server node and multiple client nodes. When a digital file is to be transferred over the network from a sending node to a receiving node, other nodes are allowed to submit bids to transport the file over the peer-to-peer network for a particular price. The node with the lowest bid is then allowed to transport the file to the receiving node, thereby optimizing network traffic based on economics. Thus, according to the present invention, nodes only submit bids when an actual digital file is to be transferred, not before a digital file is to be transferred or in anticipation of a digital file being transferred.

According to Chapter 2143.03 of the M.P.E.P., in order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught by the prior art. The Applicant submits that neither *Johnson* nor *DeBruine*, either alone or in combination, teaches all the features recited in the pending claims. More specifically, claim 1 recites a method for transporting digital files, comprising, among other features, allowing other nodes to submit bids to transport a file "when a digital file is to be transferred over the network from a sending node to a receiving node." Claims 10, 19, 26, 33, 45, and 46 include similar features. The Applicant submits that neither reference, either alone or in combination, teaches nodes submitting bids when a digital is to be transported over a network. In maintaining the rejection, the Patent Office asserts that *Johnson* discloses this feature at col. 2, line 45 through col. 3, line 26; col. 3, lines 46-65; col. 20, lines 30-44; and col. 16, lines 1-7. (*See Office Action*, page 3). The Applicant respectfully disagrees. While *Johnson* does disclose carriers transmitting to a moderator the rate

the carriers are willing to charge for service between two switching points for a telephone call, *Johnson* does not disclose that the carriers transmit the rates to a moderator when a telephone call is actually made. (*See Johnson*, col. 2, lines 59-65). In fact, *Johnson* teaches the opposite. *Johnson* teaches that the carriers have submitted their bids and the moderator has already selected a carrier well before a call is made. More specifically, *Johnson* teaches that when a call to a toll-free number is made, a carrier identifier for a carrier, which has already been designated by the moderator prior to the phone call being made to the carrier, is provided for calls to the toll-free number. (*See Johnson*, col. 4, lines 12-18). Therefore, claims 1, 10, 19, 26, 33, 45, and 46 are patentable over *Johnson* in view of *DeBruine* and the Applicant requests that the rejection be withdrawn. Likewise, claims 2, 3, 11, and 12, which depend from claims 1 and 10 respectively, are patentable for at least the same reasons along with the novel features recited therein.

Claims 4-9, 13-18, 20-25, and 27-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johnson* and *DeBruine* as applied to claims 1, 10, 19, and 26, and further in view of U.S. Patent No. 6,295,294 B1 to *Odlyzko*. The Applicant respectfully traverses the rejection.

As mentioned above, claims 1, 10, 19, and 26, the base claims from which claims 4-9, 13-18, 20-25, and 27-32 respectively depend, are patentable over *Johnson* in combination with *DeBruine*. In addition, *Odlyzko* does not address the previously noted shortcomings of both *Johnson* and *DeBruine*. As such, claims 4-9, 13-18, 20-25, and 27-32 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claim 7 recites that "if the specified quality of service is immediate delivery and the receiving node is off-line, uploading the file from the sending node to the server node, and delivering the file from the server node when the receiving node comes online." Claims 16, 23, and 30 include similar features. The Applicant submits that none of the references, either alone or in combination, teaches that if a specified quality of service is immediate delivery and the receiving node is off-line, uploading the file from the sending node to the server node, and delivering the file from the server node when the receiving node comes online. As correctly pointed out by the Patent Office, neither *Johnson* nor *DeBruine* discloses this feature. (*See Office Action*, pages 8 and 9). Similarly, *Odlyzko* does not disclose this feature. The Applicant has reviewed the reference and submits that nowhere does *Odlyzko* teach that if a quality or

service is immediate delivery and the receiving node is off-line, uploading the file from the sending node to the server node, and delivering the file from the server node when the receiving node comes online. As such, in addition to the reasons noted above with reference to claims 1, 10, 19, and 26, claims 7, 16, 23, and 30 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claim 8, which depends from claim 1, recites "if the specified quality of service is scheduled delivery, then queuing file transmission until a scheduled time." Claims 17, 24, and 31, which depend from claims 10, 19, and 26, include the same features. The Applicant submits that none of the cited references, either alone or in combination, teaches that if a specified quality of service is scheduled delivery, then file transmission is queued until a scheduled time. As correctly pointed out by the Patent Office, neither *Johnson* nor *DeBruine* teaches this feature. (*See Office Action*, pages 8 and 9). Similarly, *Odlyzko* does not teach this feature. While *Odlyzko* does disclose transmitting network traffic having lower priority over channels having lower costs, *Odlyzko* does not teach queuing file transmission until a scheduled time if a specified quality of service is scheduled delivery. (*See Odlyzko*, col. 5, lines 32-34). Therefore, in addition to the reasons noted above with respect to claims 1, 10, 19, and 26, claims 8, 17, 24, and 31 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claims 34-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Johnson* and *DeBruine* as applied to claim 33, and further in view of U.S. Patent No. 6,012,045 to *Barzilai et al.* (hereinafter "*Barzilai*"). The Applicant respectfully traverses this rejection.

As detailed above, claim 33, the base claim from which claims 34-40 and 44 depend, is patentable over *Johnson* and *DeBruine*. Moreover, *Barzilai* does not overcome the previously noted shortcomings of both *Johnson* and *DeBruine*. As such, claims 34-40 and 44 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claim 41 recites providing the offer as an entry on a web page that includes a name and size of a file and "a chosen quality of service." Claim 42 recites identifying in a bid a bidding node, and a predetermined price and a "quality of service for delivering the file." The Applicant submits that the Patent Office has not established that the prior art discloses providing an offer as an entry on a web page includes a chosen quality of service nor identifying in a bid a quality of service for delivering a file. In maintaining the rejection, the Patent Office states that this feature

is well known and indicates that eBay shows "bids, price, item auctioned, and customer account." (*See Office Action*, page 13). However, the Patent Office has not established, nor does the cited art teach, providing an offer as an entry on a web page which includes a chosen quality of service nor identifying in a bid a quality of service for delivering a file. Thus, claims 41 and 42 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claim 43 recites "choosing the bid that has the lowest price and that matches the quality of service in the offer." The Applicant submits that the prior art does not teach choosing a bid that matches a quality of service in an offer. The Patent Office maintains the rejection by stating the eBay discloses "bids, price, item auctioned, and customer account." (*See Office Action*, page 13). Nevertheless, the Patent Office has not established, nor does the cited art teach, choosing a bid that matches a quality or service in an offer. Thus, in addition to the reasons noted above with respect to claim 33, claim 43 is patentable over the cited references and the Applicant requests that the rejection be withdrawn.

The present application is now in a condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact the Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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